IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 12232 of 2004

Between:

M/s. Venkata Syamala General Stores Kaikaluru Krishna District, rep by Proprietor, Mr. K. Seetaramaiah S/o K. Ramanaidu

..... PETITIONER

AND

1 The Joint Commissioner (CT) (Legal), O/o The Commissioner of Commercial Taxes, Excise-Commercial Taxes Complex, M.J. Road, Nampally Hyderabad
2 The Deputy Commissioner (CT) No.II Division Vijayawada, Krishna District
3 The Commercial Tax Officer, Machilipatnam Krishna District
4 The Secretary, Sales Tax Appellate Tribunal Nampally, Hyderabad
5 The Branch Manager M/s. Kanaka Durga Gramina Bank, Kaikaluru Krishna District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction particularly in the nature of Writ of mandamus declaring the impugned proceedings of the first respondent in the CCT's Ref.No.LV(2)/1391/2004 dated 27-05-2004 dismissing the stay petitions by the petitioner firm for assessment years 2002-2003 adn2003-2004 (Provl.) as illegal, arbitrary amounting the total taxation in view of the revisions/proceedings issued by the provisional assessing authorities on the manufacturers levying tax on the alleged rental values @ 12% in terms of Entry-21 of the 6th Schedule to the APGST Act and consequently directing the third respondent not to take coercive steps for recovery of the tax in dispute for the above mentioned assessment years,

Counsel for the Petitioner:MR.M.V.J.K.KUMAR

Counsel for the Respondents 1 to 4: GP FOR COMMERCIAL TAX

The Court made the following :

-

ORAL ORDER: (Per the Hon'ble Sri Justice Bilal Nazki)

Stay application was declined by the authority while the appeal was pending against the assessment.

The learned counsel for the petitioner submits that the appeal has also been dismissed by the first appellate authority and a second appeal is now filed before the Tribunal. It is also submitted that at the time of filing of first appeal, as a statutory requirement, he had deposited 12 ½ % of the disputed tax and another 37 ½% he has deposited at the time of filing of the second appeal and so in all he had already paid 50% of the disputed liability.

In these circumstances, we feel that till the second appeal is decided, the petitioner should get some breathing space and in all had paid 50% of the disputed liability. In these circumstances, we direct that no coercive steps shall be taken against the petitioner till disposal of the second appeal provided, he deposits another 25% of the disputed liability within a period of six weeks.

Accordingly, the writ petition is disposed of. No costs.

(BILAL NAZKI, J)

19-07-2004.

(L.NARASIMHA REDDY, J)

mjl/ajr

To

1 The Joint Commissioner (CT) (Legal), O/o The Commissioner of Commercial Taxes, Excise-Commercial Taxes Complex, M.J. Road, Nampally Hyderabad
2 The Deputy Commissioner (CT) No.II Division Vijayawada, Krishna District
3 The Commercial Tax Officer, Machilipatnam Krishna District
4 The Secretary, Sales Tax Appellate Tribunal Nampally, Hyderabad
5 The Branch Manager M/s. Kanaka Durga Gramina Bank, Kaikaluru Krishna District

6. 2 CCs to G.P. for Commercial Tax, High Court of A.P.Hyderabad.

7. 2 CD copies.